

CHILE 2020 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Chile is a constitutional multiparty democracy. In 2017 the country held presidential elections and concurrent legislative elections, which observers considered free and fair. Former president (2010-14) Sebastian Pinera won the presidential election and took office in March 2018.

The Carabineros and the Investigative Police have legal responsibility for law enforcement and maintenance of order, including migration and border enforcement, within the country. The Ministry of the Interior and Public Security oversees both forces. Civilian authorities generally maintained effective control over the security forces. Members of the security forces committed abuses.

On October 25, the country held a plebiscite, which observers considered free and fair, in which a majority approved the drafting of a new constitution.

Significant human rights issues included reports of arbitrary or unlawful killings; torture by law enforcement officers; violence against indigenous persons; and violence against lesbian, gay, bisexual, transgender, and intersex persons.

The government took steps to identify, investigate, prosecute, and punish officials who committed human rights abuses.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were isolated reports that the government or its agents committed arbitrary or unlawful killings. On October 18, during a protest in Santiago marking the anniversary of the 2019 social unrest, Anibal Villarroel was shot and killed, allegedly by Carabineros. The case was under investigation at year's end.

The Investigative Police and Public Prosecutor's Office investigate whether security force killings were justifiable and pursue prosecutions. The National Institute of Human Rights (INDH), an independent government authority that monitors complaints and allegations of abuse, may file civil rights cases alleging arbitrary killings. As of October prosecutions of one soldier and one marine

arrested for killings during the 2019 social unrest and investigations into three other killings--two allegedly by Carabineros and one by a soldier--continued.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

In October a Supreme Court hearing was held in the 1985 disappearance case of U.S. citizen Boris Weisfeiler.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

Although the constitution and law prohibit such practices, there were reports of excessive force, abuse, and degrading treatment by law enforcement officers. Since widespread protests and civil unrest that began in 2019 and continued into January and February, the INDH filed nearly 2,500 criminal accusations that law enforcement officials committed acts of torture or cruel treatment during detention of protesters or criminal arrests, including accusations of sexual abuse or assault. In July the National Prosecutor's Office announced it had received more than 8,800 allegations of abuse by security forces between October 18, 2019, and March 31. Of these, more than 1,000 allegations were for abuse of minors and nearly 400 for sexual violence. As of October the National Prosecutor's Office reported that 4,681 investigations remained open and that it had formally charged 75 members of security forces and had requested hearings to charge 22 more. Of those charged, one case had resulted in a conviction by October.

On March 29, during a protest in the Santiago neighborhood of Villa Francia, a woman who claimed she was not involved in the protest was stopped by Carabineros and allegedly beaten, despite complying with orders and declaring that she was pregnant. She was taken to a police station, where she suffered a miscarriage, and was transferred to a hospital, where medical personnel allegedly mistreated her. She was taken back to the police station and only released when the prosecutor arrived. On April 2, the INDH filed a criminal complaint of torture, which remained under investigation as of October.

During the civil unrest, more than 200 civilians suffered eye trauma due to Carabineros' use of shotguns loaded with nonlethal pellets, according to the INDH. On July 23, a man lost his eye in the city of Renca after being shot, allegedly by a member of the Investigative Police. The INDH filed a criminal suit for torture,

prosecutors opened an investigation, and as of October the accused officer remained under house arrest.

In August prosecutors arrested and charged the officer who shot Gustavo Gatica with a riot-control shotgun in November 2019, blinding him in both eyes. As of October the case against the officer remained open. In April the government issued new regulations on the use of force by security forces, including police and armed forces, to limit the use of shotguns and other nonlethal ammunition during protests.

Human rights groups reported that impunity was a problem in the security forces, especially the Carabineros. The INDH, Investigative Police, and public prosecutors investigated many of the abuses and brought criminal charges, but court closures and delays due to the COVID-19 pandemic slowed investigations. The Carabineros quickly fired many officers accused of abuses and administratively sanctioned others. The slow pace and small number of prosecutions relative to the number of accusations stemming from the social unrest created a perception that those accused of abuses did not face effective accountability. The government increased training for Carabineros officers on crowd control techniques and human rights.

Prison and Detention Center Conditions

According to the INDH and other observers, conditions in some prisons were poor, due to antiquated infrastructure, overcrowding, substandard sanitary infrastructure, and inadequate water supplies. Human rights organizations reported that violence, including torture, occurred, as well as an entrenched practice of unsanctioned punishment.

Physical Conditions: The prison population was unevenly distributed across the prison system, with approximately 50 percent of prisons operating beyond maximum capacity, while others were underpopulated. Overpopulation and inadequate facilities led to comingling of pretrial detainees and convicted prisoners as a common practice. The INDH reported that prisoners were often confined to their cells for the majority of the day, a practice that did not allow sufficient time for exercise or participation in rehabilitation and readjustment programs.

Prisoner and human rights groups continued to investigate alleged abuse or use of excessive force against detainees, and media covered some of the allegations.

On April 16, the government passed a law to commute the sentences of 1,860 elderly prisoners, pregnant women, and women with infant children, releasing them to house arrest to limit their exposure to COVID-19. Prisoners convicted of violent crimes and crimes against humanity were not eligible.

Administration: Independent government authorities, including the INDH, generally investigated credible allegations of mistreatment. The government usually investigated and monitored prison and detention center conditions.

Independent Monitoring: The government permitted prison visits by independent human rights observers, and such visits took place at both government and privately operated facilities.

d. Arbitrary Arrest or Detention

The constitution prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court. The government did not always observe these requirements.

Arrest Procedures and Treatment of Detainees

Only public officials expressly authorized by law may arrest or detain citizens, and they generally did so openly with warrants based on sufficient evidence brought before an independent judiciary. Authorities must immediately inform a prosecutor of an arrest and generally did so.

The prosecutor must open an investigation, receive a statement from the detainee, and ensure that the detainee is held at a local police station until the detention control hearing. Detention control hearings are held twice daily, allowing for a judicial determination of the legality of the detention within 24 hours of arrest. Detainees must be informed of their rights, including the right to an attorney and the right to remain silent until an attorney is present. Public defenders are provided for detainees who do not hire their own lawyer. Authorities must expedite notification of the detention to family members. If authorities do not inform detainees of their rights upon detention, the judge may declare the process unlawful during the detention control hearing.

The law allows judges to set bail, grant provisional liberty, or order continued detention as necessary for the investigation or the protection of the prisoner or the public.

The law affords detainees 30 minutes of immediate and subsequent daily access to a lawyer (in the presence of a prison guard) and to a doctor to verify their physical condition. Regular visits by family members are allowed.

Persons detained during protests that violated curfews or restrictions on public gatherings put in place due to the COVID-19 pandemic were often released without charge and without a detention control hearing, and thus without a formal determination whether the arrest was lawful.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence and impartiality.

Trial Procedures

The constitution and law provide for the right to a fair and public trial, and an independent judiciary generally enforced that right.

Defendants enjoy a presumption of innocence and have a right of appeal. They have the right to be informed promptly of charges, to have time to prepare their defense, and not to be compelled to testify or admit guilt. Three-judge panels form the court of first instance. The process is oral and adversarial, defendants have the right to be present and consult with an attorney in a timely manner, and judges rule on guilt and dictate sentences. Defendants have the right to free assistance from an interpreter. Court records, rulings, and findings were generally accessible to the public.

The law provides for the right to legal counsel, and public defenders' offices across the country provided professional legal counsel to anyone seeking such assistance. When human rights organizations or family members requested assistance, the nongovernmental organization (NGO) Corporation for the Promotion and Defense of the Rights of the People and other lawyers working pro bono assisted detainees during interrogation and trial. Defendants may confront or question adverse witnesses and present witnesses and evidence on their behalf, although the law provides for unidentified witnesses to testify in secret in certain circumstances.

For crimes committed prior to the implementation of the 2005 judicial reforms, criminal proceedings are inquisitorial rather than adversarial. As of September, one inquisitorial criminal court remained open.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

In civil matters there is an independent and impartial judiciary, which permits individuals to seek civil remedies for human rights violations; however, the civil justice system retained antiquated and inefficient procedures, which resulted in civil trials lasting years, if not decades. Administrative and judicial remedies are available for alleged wrongs. Individuals and organizations may appeal adverse domestic decisions domestically or to regional human rights bodies. Cases involving violations of an individual's human rights may be submitted through petitions by individuals or organizations to the Inter-American Commission on Human Rights, which in turn may submit the case to the Inter-American Court of Human Rights. The court may order civil remedies, including fair compensation to the individual injured.

f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence

The constitution prohibits such actions, and there were no reports that the government failed to respect these prohibitions.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

The constitution provides for freedom of expression, including for the press, and the government generally respected this right. An independent press, an effective judiciary, and a functioning democratic political system combined to promote freedom of expression, including for the press.

Violence and Harassment: On May 1, Carabineros arrested a large group of journalists covering a Labor Day protest in Santiago. Despite the journalists' claims of possessing appropriate credentials exempting them from COVID-19

restrictions, the Carabineros accused them of violating limits on public gatherings and transported them to a police station. Several of the journalists continued broadcasting during their arrests, and videos showed Carabineros using water cannons and pepper spray against members of the press.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedoms of Peaceful Assembly and Association

The law provides for the freedoms of peaceful assembly and association, and the government generally respected those rights.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

d. Freedom of Movement

The constitution provides for freedom of internal movement, foreign travel, emigration, and repatriation; and the government generally respected these rights.

e. Status and Treatment of Internally Displaced Persons

Not applicable.

f. Protection of Refugees

The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees, including access to education and health care.

Durable Solutions: In 2018 the government announced a Democratic Responsibility visa for Venezuelans fleeing the humanitarian crisis in Venezuela. In June 2019 the government halted visa-free entry for nonimmigrant Venezuelans. Under the government's immigration reform, the Democratic Responsibility Visa is the primary means for Venezuelans to work or establish legal residency in Chile. In 2018 the government began facilitating the voluntary repatriation of more than 1,200 Haitians to Port-au-Prince under its Humanitarian Plan for Orderly Returns program. Haitians wishing to participate must sign a declaration agreeing not to return to Chile within nine years of departing.

Section 3. Freedom to Participate in the Political Process

The law provides citizens the ability to choose their government through free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

Elections and Political Participation

Recent Elections: The country held concurrent presidential and legislative elections in 2017, both of which observers considered free and fair. The center-right candidate, Sebastian Pinera, won the 2017 runoff election against the center-left independent candidate Senator Alejandro Guillier.

On October 25, the country held a plebiscite, which observers considered free and fair, in which a majority approved the drafting of a new constitution.

Participation of Women and Members of Minority Groups: No laws limit participation of women or members of minority groups in the political process, and they did participate. The constitutional convention to be elected in April 2021 requires gender parity.

The Mapuche minority group, which represents approximately 13 percent of the population, has historically been underrepresented in government. In 2017 two candidates from the Mapuche indigenous group were elected to congress--one to

the 43-seat Senate and one to the 155-seat Chamber of Deputies (see section 6, Ethnic Minorities).

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, and the government generally implemented those laws effectively. There were isolated reports of government corruption during the year.

Corruption: On June 1, prosecutors requested a 26-year sentence for Karim Chahuan, a city council member in the town of La Calera, Valparaiso, for drug trafficking, influence trafficking, falsification of public documents, obstruction of justice, and violations of the state security law. Chahuan was accused of using his position to obtain fraudulent documents for vehicles used in drug trafficking and other crimes and of being a gang ringleader. As of September he was in preventive detention awaiting trial.

Financial Disclosure: Law and regulation require income and asset disclosure by appointed and elected officials. Declarations are made available to the public, and there are administrative sanctions for noncompliance.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases, including multiple investigations into abuses during the civil unrest. Government officials were cooperative and responsive to their views.

Government Human Rights Bodies: The INDH operated independently and effectively, issued public statements and an annual report, and proposed changes to government agencies or policies to promote and protect human rights. The Senate and Chamber of Deputies have standing human rights committees responsible for drafting human rights legislation.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Women

Rape and Domestic Violence: The law criminalizes rape of men or women, including spousal rape. Penalties for rape range from five to 15 years' imprisonment, and the government generally enforced the law.

The law criminalizes both physical and psychological domestic violence and protects the privacy and safety of the victim making the charge of rape or domestic violence.

Family courts handle cases of domestic violence and penalize offenders with monetary fines and other sanctions, such as eviction of the offender from the residence shared with the survivor, restraining orders, confiscation of firearms, and court-ordered counseling. Cases of habitual psychological abuse and physical abuse are prosecuted in the criminal justice system. Penalties are based on the gravity of injuries and range from 61 days' to 15 years' imprisonment. Murder in the context of domestic violence is defined as femicide in the criminal code, and penalties range from 15 years to life in prison. The government generally enforced the laws against domestic violence effectively.

The Ministry of Women and Gender Equality had a victims' assistance and protection program that operated psychological, legal, and social assistance centers and shelters throughout the country and maintained an emergency hotline.

Violence against women and girls, including rape and femicide, was a significant problem. Police and prosecutor reports of domestic violence were lower than in previous years, presumably due to difficulties for victims presented by public health measures restricting movement to prevent the spread of COVID-19. Calls to the Ministry of Women and Gender Equality's gender violence hotline increased 80 percent between March and April. Reports of rape reached a 10-year high in 2019.

On August 6, the body of a 16-year-old girl who had been missing for one week was found buried under the house of her mother's partner in the Valparaiso region. She had been raped and killed. On August 10, the alleged perpetrator was arrested and held in pretrial detention. He had prior convictions for killing a previous partner and her nine-year-old son in 2005 and was freed on parole in 2016. On September 23, the girl's mother was arrested for her alleged participation in the killing. An investigation remained open at year's end. On August 22, Carabinera Norma Vasquez was found dead in the trunk of a car in Linares. Her boyfriend, former Carabineros second lieutenant Gary Valenzuela Ramos, was arrested and placed in pretrial detention. Carabineros dismissed Valenzuela Ramos and opened

an internal investigation on July 30, after Vasquez filed a sexual harassment charge against him. An investigation remained open at year's end.

Sexual Harassment: Workplace sexual harassment is not a criminal offense, with penalties outlined exclusively in the labor code. By law sexual harassment in the workplace is cause for immediate dismissal from employment. The law requires employers to define internal procedures, or a company policy, for investigating sexual harassment, and employers may face fines and additional financial compensation to victims if it is shown the company policy on sexual harassment was not followed. The law provides protection to those affected by sexual harassment by employers and coworkers. The law provides severance pay to individuals who resign due to sexual harassment if they have completed at least one year with the employer.

Sexual harassment in public spaces is a crime. The law defines any verbal or gesture of a sexual nature designed to intimidate or humiliate another person as harassment, and it includes audiovisual recordings of an individual's genital area or private parts without consent. Depending on the severity of the crime, penalties range from 61 days' to five years' imprisonment and monetary fines.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

Discrimination: Although women possess most of the same legal rights as men, the government did not enforce the law effectively, and discrimination in employment, pay, ownership and management of businesses, and education persisted. Certain laws defining the marital relationship enable discrimination. The most common marital arrangement is "conjugal society," which provides that a husband has the right to administer joint property, including his wife's property, without consultation or written permission from his spouse, but a wife must demonstrate that her husband has granted his permission before she is permitted to make financial arrangements. Legislation remained pending years after a 2007 agreement with the Inter-American Commission on Human Rights to modify the conjugal society law to give women and men equal rights and responsibilities in marriage. The commercial code provides that, unless a woman is married under the separate-estate regime or a joint-estate regime, she may not enter into a commercial partnership agreement without permission from her husband, while a man may enter into such an agreement without permission from his wife.

Despite a law providing for equal pay for equal work, women are 37 percent less likely than men to receive an equal wage for similar work, according to an organization specializing in market and consumer data. The Ministry of Women and Gender Equality is in charge of protecting women's legal rights and is specifically tasked with combatting discrimination against women.

Children

Birth Registration: Citizenship is derived by birth within the country's territory and from one's parents or grandparents. There were no reports that birth registration was denied on a discriminatory basis.

Child Abuse: There are laws against child abuse, but it remained a persistent problem. The law renders persons convicted of child sexual abuse permanently ineligible for any position, job, career, or profession in educational settings requiring direct and habitual contact with children younger than age 18. The law also includes a public registry of these sex offenders.

In April the government ordered the closure of the National Service for Minors (SENAME) shelter Residencia el Nido in the municipality of Hualpen. The Talcahuano prosecutor's office opened an investigation into the former shelter director, who allegedly authorized adults to enter the residence and sexually abuse the children in exchange for money. The Talcahuano prosecutor's office opened an investigation into other staff members at the shelter to determine their possible involvement. The National Prosecutor's Office, Justice and Human Rights representative in the Bio-Bio Region, and National Defender for Children's Rights initiated legal actions against the alleged perpetrators and asked the local court to relocate 23 children from the shelter.

Child, Early, and Forced Marriage: The legal minimum age of marriage is 18 (16 with parental consent).

Sexual Exploitation of Children: The law prohibits all forms of human trafficking, prescribing penalties ranging from five years and one day to 15 years in prison, plus fines, for trafficking offenses. Nevertheless, child sex-trafficking cases were often prosecuted under a different law, Article 367 of the penal code, which provides lesser penalties. Due to sentencing guidelines for first-time offenders that provide automatic parole for any sentence of less than five years' confinement, many convicted traffickers received weak and inadequate sentences, which hampered efforts to deter and hold traffickers accountable.

Sexual relations with minors between the ages of 14 and 18 may be considered statutory rape depending on the circumstances; sex with a child younger than age 14 is considered rape, regardless of consent or the victim's gender. Penalties for statutory rape range from five to 20 years in prison. Child pornography is a crime. Penalties for producing child pornography range from 541 days to five years in prison.

Commercial sexual exploitation of children and adolescents was a problem, and children were victims of sex trafficking with and without third-party involvement. Children were also used in the production of pornography.

Institutionalized Children: SENAME continued implementing a restructuring, begun after investigations following the death of an 11-year-old child in SENAME custody in 2017 revealed systemic problems of abuse and neglect in SENAME shelters. The restructuring included closing traditional shelters for vulnerable children and replacing them with family-style residences. The first family-style residences opened in 2019 in Valparaíso and Santiago. During the year SENAME opened additional residences in Santiago, Arica, and Biobío.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

Anti-Semitism

The Jewish community numbers approximately 18,000 persons. Jewish community leaders reported concern over the tone of social media postings they perceived as threatening. The commentary that leaders found offensive primarily referenced frustration with Israeli government policies and did not specifically mention either Jewish individuals or Chilean Jews.

In July the mayor of the city of Recoleta made anti-Semitic statements in a radio interview, alleging a "Zionist conspiracy" to control the media. Central government officials widely condemned the comments. In October during a march in Santiago by groups opposed to the drafting of a new constitution, photographs published in the media showed some groups using anti-Semitic symbols, slogans, and salutes.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities, and the government generally enforced these provisions. Persons with disabilities suffered forms of de facto discrimination. The law provides for universal and equal access to buildings, information, and communications. Most public buildings did not comply with legal accessibility mandates. The public transportation system, particularly outside Santiago, did not adequately provide accessibility for persons with disabilities. In recent years, however, the Metropolitan Mobility Network, the main system of public transportation within Santiago, instituted changes to improve compliance with the law, including new ramp systems and elevators at certain metro stations, as well as improved access to some buses. Nevertheless, many metro stations and most buses remained inaccessible to persons with physical disabilities.

In September Marcelo Delgado, a computer technician with disabilities, filed a complaint alleging discrimination and aggression at his former place of employment. According to Delgado, he was attacked and bullied by coworkers and faced discriminatory repercussions from the company's human resources department after reporting the incident, leading to his firing. As of October the Labor Directorate continued to investigate the complaint.

In April a public hospital in the Puente Alto municipality of Santiago refused to release a baby to its biological father due to the father's disability. Despite the fact the father worked and lived independently, the hospital claimed he was incapable of caring for the child and petitioned a family court to send the child to foster care. The father sued, with support of a disability rights NGO, and in November obtained custody of his child.

Members of National/Racial/Ethnic Minority Groups

Equal treatment and nondiscrimination are explicitly protected in the constitution, and the labor code specifically prohibits discrimination. There were reports of discrimination against racial minorities and immigrants in the public-health and

education systems. The government implemented training programs for public officials on assisting immigrants, incorporated interpreters into offices, and provided information in languages other than Spanish, specifically Haitian Creole. Several municipal governments implemented plans for assistance to migrants in public services.

Indigenous People

Although the constitution does not specifically protect indigenous groups, indigenous peoples have the right to participate in decisions affecting their lands, cultures, and traditions, including the exploitation of energy, minerals, timber, or other natural resources on indigenous lands. Indigenous peoples, however, encountered serious obstacles to exercising these civil and political rights, including the right to use natural resources in their territories, to political participation, and to nondiscrimination and equal access to justice. While indigenous lands were demarcated, some indigenous Mapuche and Rapa Nui communities demanded restitution of privately and publicly owned traditional lands.

The law recognizes nine indigenous groups in the country and creates an administrative structure to provide specialized programs and services to promote economic, social, and cultural development of these peoples.

Indigenous persons experienced societal discrimination, including in employment; there were reports of incidents in which they were attacked and harassed. There were numerous reports of police abuse against Mapuche individuals and communities, including against children. The INDH brought petitions to protect the constitutional rights of Mapuche individuals, including children and adolescents, in cases of excessive use of force by security forces. On June 10, the INDH filed a writ of constitutional protection of the rights of the Mapuche community We Newen in Collipulli, Araucania Region, after receiving allegations from 16 community members, including seven children, regarding excessive use of force during police raids, searches without a warrant, and indiscriminate use of antiriot weapons, including tear gas and water cannons, during a 10-day period in May.

On August 18, the Ministry of Justice and Human Rights announced it had reached an agreement with imprisoned Mapuche religious leader Celestino Cordova to end a 107-day hunger strike. Cordova, who was serving an 18-year sentence for his role in a 2013 double murder, demanded he be released to house arrest for the

duration of the COVID-19 pandemic. On August 13, the Supreme Court denied that request. Under the terms of the agreement, the government allowed Cordova a one-day visit to his *rehue* (traditional altar). The government agreed to create dedicated areas for traditional Mapuche medicinal and religious ceremonies in prisons with a significant number of indigenous prisoners. After further negotiations, groups of imprisoned Mapuches in three other prisons (totaling 26 individuals) ended their hunger strikes later in August.

The trial for the 2018 Carabineros killing of Camilo Catrillanca, a Mapuche community leader in Temucuicui in the southern Araucania Region, was postponed until October due to the COVID-19 pandemic. Seven Carabineros and one civilian employee were charged with homicide, attempted homicide, obstruction of justice, falsification of and tampering with evidence, and malfeasance.

Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation and Gender Identity

Violence against lesbian, gay, bisexual, transgender, and intersex (LGBTI) individuals continued. On August 24, the Movement for Homosexual Integration and Liberation (MOVILH), a leading gay rights NGO, reported a physical attack on a gay couple in Valparaiso by a neighbor. The couple alleged the neighbor had harassed and threatened them in the past, and they had not made a complaint due to fear of retribution. MOVILH filed a legal complaint, and as of October the case was under investigation.

In November 2019 MOVILH and the INDH filed legal actions protesting the treatment of Alberto Faundez, whom police arrested in October 2019 on suspicion of theft. Upon discovering that he was gay, police allegedly physically assaulted him in the detention center, forced him to strip naked in front of other prisoners, and subjected him to homophobic insults. An investigation was pending at year's end.

In March, MOVILH reported it tracked 1,103 reports of violence or discrimination due to sexual orientation or gender identity during 2019, the highest number in the history of their annual report and a 58 percent increase from 2018. The cases included five deaths and 32 reports of police abuse, the majority of which occurred in the context of the 2019 social unrest. The most common discriminatory acts reported to MOVILH were verbal abuse and discrimination in public services, such as police operations, public education, and health services. In August, MOVILH published a survey showing a majority of LGBTI parents experienced

discrimination in public services, with the civil registry identified as the most frequent institution where discrimination occurred, followed by social services agencies, schools, and medical care.

Antidiscrimination laws exist and prohibit discrimination based on sexual orientation or gender identity in housing, employment, and access to government services. The government generally enforced these laws effectively. A law that went into effect in December 2019 grants transgender citizens age 14 and older the right to have gender markers on government-issued identity cards and university diplomas changed to reflect their gender identity. On June 8, family courts recognized the filiation of a two-year-old boy with his nonbiological lesbian mother and ordered the civil registry to update the child's birth certificate accordingly. The couple had a civil union agreement and underwent the assisted fertilization procedure together. The civil registry previously had never issued a birth certificate recognizing a child's two mothers. On November 13, the government agreed to open an interagency unit to address violence against LGBTI persons, improve victims' assistance, train public servants and police, and create antidiscrimination campaigns.

Law enforcement authorities appeared reluctant to use the full recourse of a 2012 antidiscrimination law, including charging assailants of LGBTI victims with a hate crime, which would elevate criminal penalties as permitted under the law.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the rights of workers, with some limitations, to form and join independent unions of their choice, bargain collectively, and conduct strikes. The law also prohibits antiunion practices and requires either back pay or reinstatement for workers fired for union activity.

Workers in the private sector and in state enterprises are provided the freedom to unionize without prior approval. Police, military personnel, and civil servants working for the judiciary are prohibited from joining unions. Union leaders are restricted from being candidates or members of congress. The Labor Directorate (DT), an independent government authority under the Ministry of Labor, has broad powers to monitor unions' financial accounts and financial transactions. For example, unions must update their financial records daily, and ministry officials may inspect the records at any time.

The law prohibits public employees from striking, although they frequently did, including health-care workers striking for better working conditions and personal protective equipment in public hospitals amid a surge of COVID-19 patients between May and July. While employees in the private sector and workers in formal and regulated collective bargaining units have the right to strike, the law places some restrictions on this right. For example, an absolute majority of workers, rather than a majority of those voting, must approve strikes.

The law also prohibits employees of 101 private-sector companies, largely providers of services such as water and electricity, from striking, and it stipulates compulsory arbitration to resolve disputes in these companies. In addition workers employed by companies or corporations whose stoppage would cause serious damage to the health, economy, or security of the country do not have the right to strike.

Employers may not dismiss or replace employees involved in a strike. Unions must provide emergency personnel to fulfill the company's "minimum services." Those include the protection of tangible assets and of the company's facilities, accident prevention, servicing the population's basic needs, ensuring the supply of essential public services, and ensuring the prevention of environmental and sanitary damages.

The law extends unions' rights to information, requiring large companies to disclose annual reports including balance sheets, statements of earnings, and audited financial statements. Large companies must provide any public information required by the Superintendence of Securities and Insurance within 30 days following the date when the information becomes available. Smaller companies must provide information necessary for the purposes of preparing the collective bargaining process.

While the law prior to the 2017 labor reform provided for collective bargaining rights only at the company level, the reform extended such rights to intercompany unions, provided they represent workers at employers having 50 or more employees and falling within the same economic rubric or activity. An absolute majority of all covered workers must indicate through secret ballot vote that they agree to be represented by an intercompany union in collective bargaining. Intercompany unions for workers at micro or small businesses (i.e., with fewer than 50 workers) are permitted to bargain collectively only when the individual employers all agree to negotiate under such terms. The law does not provide for

collective bargaining rights for workers in public institutions or in a private institution that receives more than 50 percent of its funding from the state in either of the preceding two years, or whose budget is dependent upon the Defense Ministry. It also does not provide for collective bargaining in companies whose employees are prohibited from striking, such as in health care, law enforcement, and public utilities. Whereas the previous labor code excluded collective bargaining rights for temporary workers or those employed solely for specific tasks, such as in agriculture, construction, ports, or the arts and entertainment sector, the revised labor standards eliminate these exclusions, extending bargaining rights to apprentices and short-term employees. Executives, such as managers and assistant managers, are prohibited from collective bargaining.

The government effectively enforced applicable laws, and penalties were commensurate with those for other laws involving denials of civil rights, such as discrimination. Nevertheless, the DT commented on the need for more inspectors. Penalties were not sufficient to deter violations. Companies are generally subject to sanctions for violations to the labor code, according to the severity of each case. Companies may receive “special sanctions” for infractions, which include antiunion practices. NGOs reported cases in labor tribunals took an average of three months to resolve. Cases involving fundamental rights of the worker often took closer to six months. NGOs continued to report it was difficult for courts to sanction companies and order remedies in favor of workers for various reasons, including if a company’s assets were in a different name or the juridical entity could not be located.

Freedom of association was generally respected. Employers sometimes did not respect the right to collective bargaining. NGOs and unions reported that companies sought to inhibit the formation of unions and avoid triggering collective bargaining rights, especially among seasonal agricultural workers and in key export sectors such as mining, forestry, and fishing, by using subcontracts and temporary contracts as well as obtaining several fiscal registration or tax identification numbers when increasing the size of the workforce. In addition subcontracted employees earned lower wages than regular employees performing the same task, and many contractors failed to provide formal employment benefits, such as social security, health care, and pensions.

Labor courts may require workers to resume work upon a determination that a strike, by its nature, timing, or duration, causes serious risk to the national economy or to health, national security, and the supply of goods or services to the population. Generally, a back-to-work order should apply only when a prolonged

strike in a vital sector of the economy might endanger public safety or health, and it should apply only to a specific category of workers. In March labor court proceedings were temporarily suspended due to the COVID-19 pandemic, until safety protocols were put in place allowing remote hearings.

b. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor. The government generally enforced the law effectively. Penalties were commensurate with those for other analogous serious crimes, such as kidnapping. NGOs reported many government officials responsible for identifying and assisting victims had limited resources and expertise to identify victims of labor trafficking. In addition judges often suspended or commuted sentences. The government worked to prevent and combat forced labor through its interagency antitrafficking taskforce, which included international organizations and local NGOs. The task force published and began implementation of the 2019-22 national action plan.

Labor trafficking continued to occur. Some foreign citizens were subjected to forced labor in the mining, domestic service, and hospitality sectors. Some children were forcibly employed in the agriculture, industry, and services sectors, as well as drug trade (see section 7.c.).

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

c. Prohibition of Child Labor and Minimum Age for Employment

The country conforms to international standards, which dictate the minimum age for employment or work should be no less than 15. The law sets the minimum age for employment at 18, although it provides that children between 15 and 18 may work with the express permission of their parents or guardians as long as they attend school. They may perform only light work that does not require hard physical labor or constitute a threat to health or the child's development. The law prohibits all of the worst forms of child labor.

Ministry of Labor inspectors effectively enforced regulations in the formal economy but did not inspect or enforce such regulations in the informal economy. Infractions included contracting a minor younger than age 18 without the authorization of the minor's legal representative, failure to register a minor's contract with the ministry, and contracting a minor younger than 15 for activities

not permitted by law. Penalties were commensurate with those for analogous serious crimes, such as kidnapping.

The government devoted considerable resources and oversight to child labor policies. The Ministry of Labor and Social Welfare, through the Program Against Child Labor, led efforts to fulfill obligations of the Convention on the Rights of the Child to eradicate the worst forms of child labor. Since 2014 the ministry's efforts focused on designing and implementing the National Strategy for the Prevention and Eradication of Child Labor and the Protection of Adolescent Workers 2015-25.

In September the Committee for the Eradication of Child Labor of the Aysen Region held a virtual workshop for staff from the Rights Protection Offices with the participation of the six teams existing in the region: Rio Ibanez, Cochrane, Chile Chico, Coyhaique, Aysen, and Cisnes. The workshop led by the Regional Ministerial Secretariat of Labor and Social Welfare and the INDH focused on the consequences produced by the COVID-19 pandemic on child labor in the southern region.

Multisector government agencies continued to participate in the National Advisory Committee to Eradicate Child Labor. The committee met regularly throughout the year and brought together civil society organizations and government agencies in a coordinated effort to raise awareness, provide services to victims, and protect victims' rights. The Worst Forms of Child Labor Task Force, a separate entity, maintained a registry of cases and a multisector protocol for the identification, registration, and care of children and adolescents who are victims of commercial sexual exploitation. The National Tourism Service's hotel certification procedures, developed in collaboration with the National Service for Minors, included strict norms for preventing the commercial sexual exploitation of children. This included special training for National Tourism Service staff charged with assessing and certifying hotels.

Child labor continued to be a problem in the informal economy and agriculture, primarily in rural areas. Higher numbers of violations occurred in the construction, industrial manufacturing, hotels and restaurants, and agriculture sectors.

In urban areas it was common to find boys carrying loads in agricultural loading docks and assisting in construction activities, while girls sold goods on the streets and worked as domestic servants. Children worked in the production of ceramics and books and in the repair of shoes and garments. In rural areas children were involved in caring for farm animals as well as in harvesting, collecting, and selling

crops, such as wheat. The use of children in illicit activities, which included the production and trafficking of narcotics, continued to be a problem. Commercial sexual exploitation of children also continued to be a problem (see section 6, Children).

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings>.

d. Discrimination with Respect to Employment and Occupation

The law and regulations prohibit employment discrimination based on race, sex, age, civil status, union affiliation, religion, political opinion, nationality, national extraction, social origin, disability, language, sexual orientation, or gender identity, HIV-positive status or other communicable diseases, refugee or stateless status, ethnicity or social status. The government and employers do not discriminate on the basis of refugee, stateless status, or ethnicity, but workers must have a work permit or be citizens to hold contracted jobs. The law also provides civil legal remedies to victims of employment discrimination based on race, ethnicity, nationality, socioeconomic situation, language, ideology or political opinion, religion or belief, association or participation in union organizations or lack thereof, gender, sexual orientation, gender identification, marriage status, age, affiliation, personal appearance, and sickness or physical disability. A 2017 law addresses matters related to persons with disabilities. For all public agencies and for private employers with 100 or more employees, the law requires 1 percent of jobs be reserved for persons with disabilities.

The government effectively enforced the applicable law, and penalties were commensurate to other laws related to civil rights. Authorities generally enforced the law in cases of sexual harassment, and there was no evidence of police or judicial reluctance to act. Companies may receive “special sanctions” for infractions such as denying maternity leave. Discrimination in employment and occupation continued to occur. Indigenous persons continued to experience societal discrimination in employment. Statistics regarding rates of discrimination faced by different groups were not available.

e. Acceptable Conditions of Work

The national minimum wage exceeded the poverty level. The law sets the legal workweek at six days or 45 hours. The maximum workday is 10 hours (including two hours of overtime pay), but the law provides exemptions for hours of work

restrictions for some categories of workers, such as managers; administrators; employees of fishing boats; restaurant, club, and hotel workers; drivers; airplane crews; telecommuters or employees who work outside of the office; and professional athletes. The law mandates at least one 24-hour rest period during the workweek, except for workers at high altitudes, who may exchange a work-free day each week for several consecutive work-free days every two weeks. Annual leave for full-time workers is 15 workdays, and workers with more than 10 years of service are eligible for an additional day of annual leave for every three years worked. Overtime is considered to be any time worked beyond the 45-hour workweek, and workers are due time-and-a-half pay for any overtime performed.

The law establishes occupational safety and health (OSH) standards, which are applicable to all sectors. Special safety and health norms exist for specific sectors, such as mining and diving. The National Service for Geology and Mines is further mandated to regulate and inspect the mining industry. The law does not regulate the informal sector. By law workers may remove themselves from situations that endanger health or safety without jeopardy to their employment, and authorities effectively protected employees in this situation.

The DT is responsible for enforcing minimum wage and other labor laws and regulations, and penalties were commensurate with those for similar crimes. The Ministries of Health and Labor administered and effectively enforced OSH standards. Penalties for violations of OSH laws were commensurate with those for similar crimes, such as negligence. The law establishes fines for noncompliance with labor regulations, including for employers who compel workers to work in excess of 10 hours a day or do not provide adequate rest days. Companies may receive “special sanctions” for infractions such as causing irreversible injuries to an employee.

The DT did not employ a sufficient number of labor inspectors to enforce labor laws effectively throughout the country, particularly in remote areas. NGOs commented that inspectors and labor tribunal judges needed more training and that a lack of information and economic means generated an inequality between parties in cases before the tribunals. Penalties were not sufficient to deter violations, especially with larger employers. The DT worked preventively with small and medium-sized businesses to assist in their compliance with labor laws.

Minimum wage violations were most common in the real estate and retail sectors. The sectors with the most infractions in OSH standards were construction, retail, and industrial manufacturing. The service sector experienced the most accidents

during the year. Immigrant workers in the agricultural sector were the group most likely to be subject to exploitative working conditions.